

Assembly Bill No. 620

Passed the Assembly September 6, 2011

Chief Clerk of the Assembly

Passed the Senate August 31, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 66010.2, 66251, 66260.7, 67380, 69433.5, 69762, 87400, and 89307.2 of, to amend the heading of Chapter 4.5 (commencing with Section 66250) of Part 40 of Division 5 of Title 3 of, to add Sections 66027 and 66302 to, and to add Article 3.5 (commencing with Section 66271.2) to Chapter 4.5 of Part 40 of Division 5 of Title 3 of, the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 620, Block. Public postsecondary education: nondiscrimination and training: sexual orientation, gender identity, and gender expression.

(1) Existing law, known as the Donahoe Higher Education Act, establishes the missions and functions of the state's 3 segments of public postsecondary education, which are the University of California, the California State University, and the California Community Colleges. The provisions of the Donahoe Higher Education Act apply to the University of California only to the extent that the Regents of the University of California, by resolution, make them applicable.

Existing provisions of the Donahoe Higher Education Act require the Regents of the University of California, the Trustees of the California State University, and the governing boards of community college districts to adopt or provide for the adoption of rules and regulations governing student behavior, known as rules of student conduct.

This bill would request the Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules of student conduct governing their respective segments of public postsecondary education. The bill would express the intent of the Legislature that rules and regulations governing student conduct be published, at a minimum, on the Internet Web sites of each public postsecondary educational campus and as part of any printed material covering those rules

and regulations within the respective public postsecondary education systems.

(2) The Equity in Higher Education Act, a part of the Donahoe Higher Education Act, provides that it is the policy of the state to afford all persons, regardless of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or other specified bases, equal rights and opportunities in the postsecondary educational institutions of the state. For these purposes, the act defines “gender” to include gender identity.

This bill would revise the definition of gender to include “gender expression” for purposes of the Equity in Higher Education Act. The bill would request the Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district to designate an employee at each of their respective campuses as a point of contact to address the needs of lesbian, gay, bisexual, and transgender faculty, staff, and students. The bill would request each segment to collect aggregate demographic information regarding sexual orientation and gender identity of staff and students within other aggregate demographic data collected, and would require annual transmittal of any report to the Legislature, as specified, and posting of the information on the Internet Web site of each respective institution.

The bill would encourage the Legislative Analyst to conduct an assessment of the campuses of each of the segments of public postsecondary education to develop recommendations to improve the quality of life on those campuses for lesbian, gay, bisexual, and transgender faculty, staff, and students, and to publish a summary of those recommendations on its Internet Web site.

The bill would make various conforming changes to existing nondiscrimination laws affecting postsecondary educational institutions and programs, and requirements related to reporting hate violence, as defined, to additionally include sexual orientation, gender identity, and gender expression within the scope of those programs and requirements.

The people of the State of California do enact as follows:

SECTION 1. Section 66010.2 of the Education Code is amended to read:

66010.2. The public elementary and secondary schools, the California Community Colleges, the California State University, the University of California, and independent institutions of higher education share goals designed to provide educational opportunity and success to the broadest possible range of our citizens, and shall provide the following:

(a) Access to education, and the opportunity for educational success, for all qualified Californians. Particular efforts should be made with regard to those who are historically and currently underrepresented in both their graduation rates from secondary institutions and in their attendance at California higher educational institutions.

(b) Quality teaching and programs of excellence for their students. This commitment to academic excellence shall provide all students the opportunity to address issues, including ethical issues, that are central to their full development as responsible citizens.

(c) Educational equity not only through a diverse and representative student body and faculty but also through educational environments in which each person, regardless of race, gender, gender identity, gender expression, sexual orientation, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential.

SEC. 2. Section 66027 is added to the Education Code, to read:

66027. (a) (1) The Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district are requested to, in collecting data relative to gender, race, ethnicity, or other demographics, from faculty, staff, or students, allow the faculty, staff, and students to identify their sexual orientation, gender identity, and gender expression on any forms used to collect that demographic data, as appropriate.

(2) A governing board shall not be required to update an existing form used to collect demographic data for purposes of this subdivision, but shall provide for the identification of sexual orientation, gender identity, and gender expression on any new or updated form used for the collection of demographic data.

(b) The Regents of the University of California, the Trustees of the California State University, and the Chancellor's Office of the California Community Colleges are requested to report aggregate

information collected pursuant to subdivision (a), to the extent that individuals from whom that information is collected authorize that information to be released where other demographic data is traditionally aggregated and reported for informational purposes and is appropriate. Any report developed shall be transmitted to the Legislature, pursuant to Section 9795 of, and notwithstanding Section 10231.5 of, the Government Code, no later than January 1 of each year and shall be made available to the general public on the Internet Web site of each respective institution. The information reported pursuant to this subdivision shall not include any individual identifying information.

SEC. 3. The heading of Chapter 4.5 (commencing with Section 66250) of Part 40 of Division 5 of Title 3 of the Education Code is amended to read:

CHAPTER 4.5. EQUITY IN HIGHER EDUCATION ACT

SEC. 4. Section 66251 of the Education Code is amended to read:

66251. It is the policy of the State of California to afford all persons, regardless of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary educational institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 4.5. Section 66260.7 of the Education Code is amended to read:

66260.7. “Gender” means sex, and includes a person’s gender identity and gender expression. “Gender expression” means a person’s gender-related appearance and behavior, whether or not stereotypically associated with the person’s assigned sex at birth.

SEC. 5. Article 3.5 (commencing with Section 66271.2) is added to Chapter 4.5 of Part 40 of Division 5 of Title 3 of the Education Code, to read:

Article 3.5. Sexual Orientation and Gender Identity Equity in
Higher Education

66271.2. The Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district are requested to designate an employee at each of their respective campuses as a point of contact for the needs of lesbian, gay, bisexual, and transgender faculty, staff, and students at the respective campus. At a minimum, the name and contact information of that designated employee shall be published on the Internet Web site for the respective campus and shall be included in any printed and Internet-based campus directories.

66271.3. The Legislative Analyst is encouraged to conduct an assessment of the California Community Colleges, California State University, and University of California systems with respect to the quality of life at those campuses for lesbian, gay, bisexual, and transgender faculty, staff, and students at the campuses of each of those institutions. If an assessment is performed, the Legislative Analyst is encouraged to use existing data provided pursuant to Section 66027 and other information available to the general public, and shall not be required to conduct new data collection or research specifically to contribute toward any assessment. The Legislative Analyst shall make recommendations to each of those institutions based on that assessment, and shall publish a summary of the recommendations developed pursuant to this section on its Internet Web site. The California Community Colleges, the California State University, and the University of California are encouraged to share existing data or research, but are not required to conduct new data collection or research specifically to contribute toward any assessment managed by the Legislative Analyst pursuant to this section.

SEC. 6. Section 66302 is added to the Education Code, to read:

66302. The Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district are requested to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior within their respective segments of public postsecondary education. It is the intent of the Legislature that rules and

regulations governing student conduct be published, at a minimum, on the Internet Web site of each public postsecondary educational campus and as part of any printed material covering those rules and regulations within the respective public postsecondary education systems.

SEC. 7. Section 67380 of the Education Code is amended to read:

67380. (a) The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance shall do all of the following:

(1) Require the appropriate officials at each campus within their respective jurisdictions to compile records of both of the following:

(A) All occurrences reported to campus police, campus security personnel, or campus safety authorities of, and arrests for, crimes that are committed on campus and that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.

(B) All occurrences of noncriminal acts of hate violence reported to, and for which a written report is prepared by, designated campus authorities.

(2) Require any written record of a noncriminal act of hate violence to include, but not be limited to, the following:

(A) A description of the act of hate violence.

(B) Victim characteristics.

(C) Offender characteristics, if known.

(3) (A) Make the information concerning the crimes compiled pursuant to subparagraph (A) of paragraph (1) available within two business days following the request of any student or employee of, or applicant for admission to, any campus within their respective jurisdictions, or to the media, unless the information is the type of information exempt from disclosure pursuant to subdivision (f) of Section 6254 of the Government Code, in which case the information is not required to be disclosed. Notwithstanding paragraph (2) of subdivision (f) of Section 6254 of the Government Code, the name of a victim of any crime defined by Section 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed without

the permission of the victim, or the victim's parent or guardian if the victim is a minor.

(B) For purposes of this paragraph and subparagraph (A) of paragraph (1), the campus police, campus security personnel, and campus safety authorities described in subparagraph (A) of paragraph (1) shall be included within the meaning of "state or local police agency" and "state and local law enforcement agency," as those terms are used in subdivision (f) of Section 6254 of the Government Code.

(4) Require the appropriate officials at each campus within their respective jurisdictions to prepare, prominently post, and copy for distribution on request, a campus safety plan that sets forth all of the following: the availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established for particular facilities or activities, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions expected to be made during the next 24 months. For the purposes of this section, posting and distribution may be accomplished by including relevant safety information in a student handbook or brochure that is made generally available to students.

(5) Require the appropriate officials at each campus within their respective jurisdictions to report information compiled pursuant to paragraph (1) relating to hate violence to the governing board, trustees, board of directors, or regents, as the case may be. The governing board, trustees, board of directors, or regents, as the case may be, shall, upon collection of that information from all of the campuses within their jurisdiction, transmit a report containing a compilation of that information to the Legislative Analyst no later than January 1 of each year and shall make the report available to the general public on the Internet Web site of each respective institution. It is the intent of the Legislature that the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance establish guidelines for identifying and reporting occurrences of hate violence. It is the intent of the Legislature that the guidelines established by these institutions of higher education be as consistent

with each other as possible. These guidelines shall be developed in consultation with the Department of Fair Employment and Housing and the California Association of Human Rights Organizations.

(b) Any person who is refused information required to be made available pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may maintain a civil action for damages against any institution that refuses to provide the information, and the court shall award that person an amount not to exceed one thousand dollars (\$1,000) if the court finds that the institution refused to provide the information.

(c) For purposes of this section, “hate violence” means any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, gender identity, gender expression, disability, or political or religious beliefs of that person or group.

(d) This section does not apply to the governing board of a private postsecondary educational institution receiving funds for student financial assistance with a full-time enrollment of less than 1,000 students.

(e) This section shall apply to a campus of one of the public postsecondary educational systems identified in subdivision (a) only if that campus has a full-time equivalent enrollment of more than 1,000 students.

(f) Notwithstanding any other provision of this section, this section shall not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for the purposes of this section.

SEC. 8. Section 69433.5 of the Education Code is amended to read:

69433.5. (a) Only a resident of California, as determined by the commission pursuant to Part 41 (commencing with Section 68000), is eligible for an initial Cal Grant award. The recipient shall remain eligible for award renewal only if he or she is a California resident, in attendance, and making satisfactory academic progress at a qualifying institution, as determined by the commission.

(b) A part-time student shall not be discriminated against in the selection of Cal Grant Program award recipients, and an award to a part-time student shall be approximately proportional to the time the student spends in the instructional program, as determined by the commission. A first-time Cal Grant Program award recipient who is a part-time student shall be eligible for a full-time renewal award if he or she becomes a full-time student.

(c) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, sexual orientation, gender identity, gender expression, or age.

(d) An applicant shall not receive more than one type of Cal Grant Program award concurrently. Except as provided in Section 69440, an applicant shall not:

(1) Receive one or a combination of Cal Grant Program awards in excess of the amount equivalent to the award level for a total of four years of full-time attendance in an undergraduate program, except as provided in Section 69433.6.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award, except as provided in Section 69440.

(e) A Cal Grant Program award, except as provided in Section 69440, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(f) The commission shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(g) The commission shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not necessarily be limited to, surveys, newspaper articles, or attachments to communications from the commission and any other published documents.

(h) The commission may require, by the adoption of rules and regulations, the production of reports, accounting, documents, or other necessary statements from the award recipient and the college or university of attendance pertaining to the use or application of the award.

(i) A Cal Grant Program award may be utilized only at a qualifying institution.

SEC. 9. Section 69762 of the Education Code is amended to read:

69762. Loans made pursuant to this chapter shall be made without regard to race, religion, creed, sex, sexual orientation, gender identity, or gender expression.

SEC. 10. Section 87400 of the Education Code is amended to read:

87400. Governing boards of community college districts shall employ for academic positions, only persons who possess the qualifications therefor prescribed by regulation of the board of governors. It is contrary to the public policy of this state for any person or persons charged, by those governing boards, with the responsibility of recommending persons for employment by those boards to refuse or to fail to do so for reasons of race, color, religious creed, sex, sexual orientation, gender identity, gender expression, or national origin of those applicants for that employment.

SEC. 11. Section 89307.2 of the Education Code is amended to read:

89307.2. (a) A legislative body shall not conduct a meeting in a facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every legislative body as defined in Section 89305.1.

(b) A notice, agenda, announcement, or report required under this article need not identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

Approved _____, 2011

Governor